

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FOREST LABORATORIES, LLC, FOREST)	
LABORATORIES HOLDINGS, LTD.,)	
CEREXA, INC., TAKEDA)	
PHARMACEUTICAL COMPANY)	
LIMITED and ALLERGAN USA, INC.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 15-018 (GMS)
)	
APOTEX CORP., APOTEX INC. and)	
SANDOZ INC.,)	
)	
Defendants.)	

FINAL JOINT CLAIM CHART

Pursuant to the Scheduling Order (D.I. 28) entered in this case, as amended by the Court's Orders entered on March 31 and April 21, 2016, the parties hereby respectfully submit the attached Exhibit A as the Final Joint Claim Chart. Forest Laboratories, LLC, Forest Laboratories Holdings, Ltd., Cerexa, Inc., Takeda Pharmaceutical Company Limited, and Allergan USA, Inc., (“Plaintiffs”), Apotex Corp. and Apotex Inc. (“Apotex”), and Sandoz Inc. (“Sandoz”) (Apotex and Sandoz together “Defendants”) have agreed upon the Final Joint Claim Chart, below, with regard to the identified claim terms of U.S. Patent 8,247,400 only, while Plaintiffs and Sandoz have also agreed to the Final Joint Claim Chart with regard to U.S. Patents Nos. 6,417,175, 6,906,055 and 7,419,973.¹

¹ Apotex has only offered constructions for terms in the ‘400 patent as that is the only patent at issue for Apotex in this litigation at this time. On April 15, 2016 Plaintiffs sued Apotex for infringement in regard to U.S. Patent 6,417,175, but no schedule has currently been set for that litigation.

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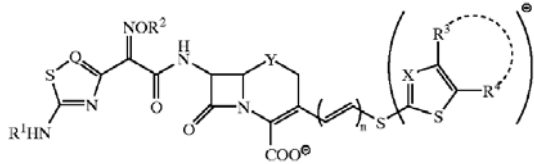
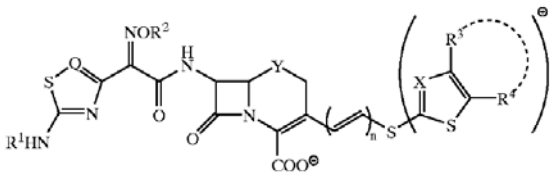
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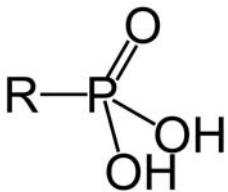
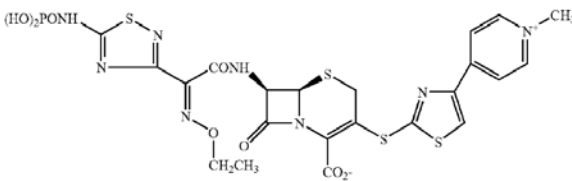
April 25, 2016

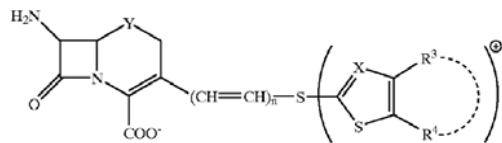
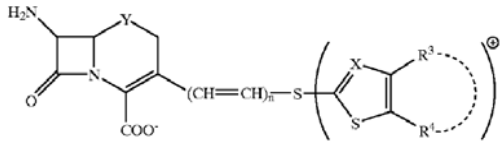
EXHIBIT A^{2, 3}**AGREED TERMS**

U.S. Patent No. 6,417,175			
Claim	Term/Phrase	Agreed Construction	Intrinsic Evidence
1, 3, 5-11, 14-15, 17	<p>A compound of the formula:</p> 	<p>A compound within the genus defined by the formula:</p>  <p>in the context of the claim</p>	Not disputed
1, 3, 4, 5, 11, 14-15, 17	or salt thereof, or its salt	the product resulting from the reaction of such compound with an acid or a base	Not disputed
1, 3, 5-11, 14-15, 17	R ¹ is a phosphono group	A functional group with the structure	Not disputed

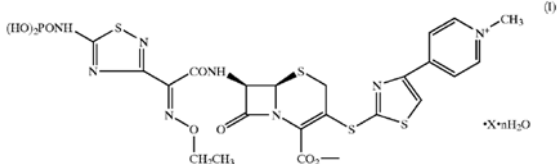
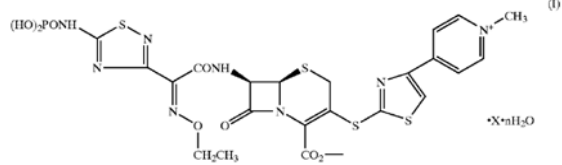
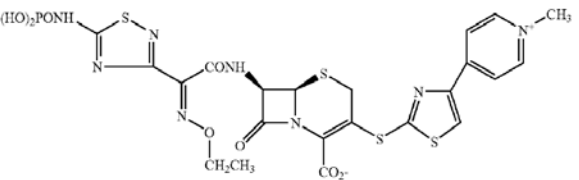
² The Parties believe that the ordinary meanings of the claim terms and all of the intrinsic evidence support their respective proposed constructions. The Parties reserve the right to rely on any intrinsic evidence on which the Parties rely, and any intrinsic evidence contradicting or otherwise rebutting any evidence on which the Parties rely.

³ To date, the Parties have not had the opportunity to challenge the inclusion of any evidence on this list on the basis that it is not “intrinsic” evidence or that it is not “relevant” evidence. To the extent necessary, the parties reserve the right to raise any such challenge in the *Markman* briefing process.

U.S. Patent No. 6,417,175			
Claim	Term/Phrase	Agreed Construction	Intrinsic Evidence
			
2, 4, 12, 16, 18-21	7β-[2(Z)-ethoxyimino-2-(5-phosphonoamino-1,2,4-thiadiazole-3-yl)acetamido]-3-[4-(1-methyl-4-pyridinio)-2-thiazolylthio]-3-cephem-4-carboxylate	ceftaroline fosamil OR 	Not disputed
3, 19	A method for producing a pharmaceutical composition	Plain and ordinary meaning	Not disputed
3, 19	mixing	Plain and ordinary meaning	Not disputed
5-7, 12, 15-16, 20-21	effective amount	Plain and ordinary meaning	Not disputed
5-7, 12, 15-16, 20-21	administering, administered	delivering into a patient's body, delivered into a patient's body	Not disputed
5-7, 12, 15-16, 20-21	to a patient suffering from the bacterial infection	Plain and ordinary meaning	Not disputed
7, 21	MRSA infection	Plain and ordinary meaning	Not disputed
14	A method for producing a compound as claimed in claim 1	Plain and ordinary meaning	Not disputed
14	reacting	Plain and ordinary meaning	Not disputed
14	a compound of the formula:	A compound within the genus defined by the formula	Not disputed

U.S. Patent No. 6,417,175			
Claim	Term/Phrase	Agreed Construction	Intrinsic Evidence
	 <p>or its salt; wherein each symbol has the meaning given in claim 1</p>	 <p>, or salt thereof, wherein Y, X, R³ and R⁴ are as defined in claim 1</p>	

AGREED TERMS

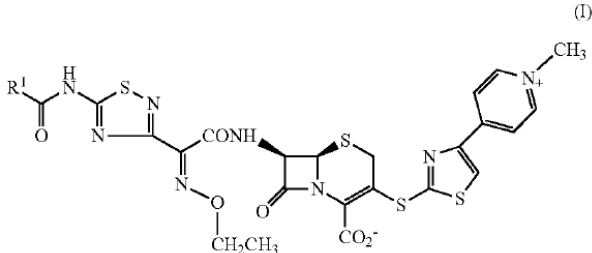
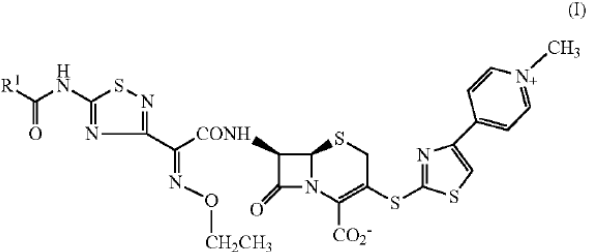
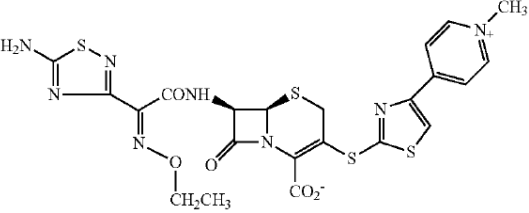
U.S. Patent No. 6,906,055			
Claim	Term/Phrase	Agreed Construction	Intrinsic Evidence
2, 10-12, 16, 18, 20-21	a crystal	Plain and ordinary meaning	Not disputed
5, 8, 19	powder X-ray diffraction (CuK α)	powder X-ray diffraction where the X-rays are emitted by copper (Cu) as K α emission lines	Not disputed
5, 8, 19	peaks	Plain and ordinary meaning	Not disputed
5, 8, 19	near diffraction angles	within +/- 0.2° of diffraction angles (2 θ) in an X-ray diffractogram	Not disputed
10-12	<p>A production method of a crystal of a compound represented by the formula:</p>  <p>(I)</p> <p>$\cdot nH_2O$</p>	<p>A production method of a crystal of a compound within the genus defined by the formula:</p>  <p>(I)</p> <p>$\cdot nH_2O$</p> <p>* Sandoz preserves its indefiniteness argument regarding a compound represented by the formula (I), as set forth below.</p>	Not disputed
10-12	mixing	Plain and ordinary meaning	Not disputed
10-13, 21		<p>ceftaroline fosamil</p> <p>OR</p> <p>7β-[2(Z)-ethoxyimino-2-(5-phosphonoamino-1,2,4-thiadiazole-3-yl)acetamido]-3-[4-(1-methyl-4-pyridinio)-2-</p>	Not disputed

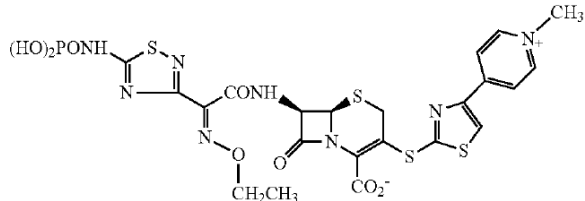
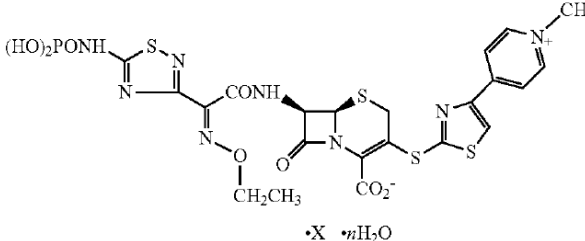
U.S. Patent No. 6,906,055			
Claim	Term/Phrase	Agreed Construction	Intrinsic Evidence
		thiazolylthio]-3-cephem-4-carboxylate	
20	A method for making a crystal of a compound of formula (I)	Plain and ordinary meaning* * Sandoz preserves indefiniteness argument regarding a compound of formula (I), as set forth below.	Not disputed
21	A crystal obtained by crystallizing a compound of formula (Ia):	Plain and ordinary meaning	Not disputed

AGREED TERMS

U.S. Patent No. 7,419,973			
Claim	Term/Phrase	Agreed Construction	Intrinsic Evidence
1, 8-13, 23	pH adjuster	Plain and ordinary meaning	Not disputed
2	a crystal	Plain and ordinary meaning	Not disputed
5	powder X-ray diffraction (CuK α)	powder X-ray diffraction where the X-rays are emitted by copper (Cu) as K α emission lines	Not disputed
5	peaks	Plain and ordinary meaning	Not disputed
5, 8, 19	near diffraction angles	within +/- 0.2° of diffraction angles (2 θ) in an X-ray diffractogram	Not disputed
9, 14-16, 23	L-arginine	Plain and ordinary meaning	Not disputed
14-16	equivalents relative to the amount of the compound of formula (I)	mole of L-arginine for each mole of the compound of formula (I)* *Sandoz also asserts that the term “compound of formula (I)” is indefinite, as set forth above.	Not disputed
21	a solvent	a solvent as a carrier	Not disputed
22	physiological saline	Plain and ordinary meaning	Not disputed
22	5% glucose solution	Plain and ordinary meaning	Not disputed
22	the solvent is water, physiological saline or a 5% glucose solution	Plain and ordinary meaning	Not disputed

AGREED TERMS

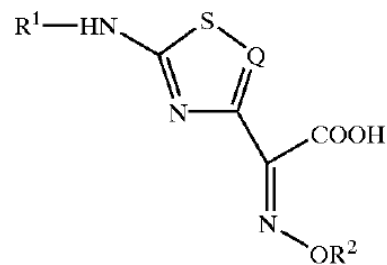
U.S. Patent No. 8,247,400			
Claim	Term/Phrase	Agreed Construction	Intrinsic Evidence
1-11, 13-23	<p>A compound of formula (I):</p>  <p>(I)</p>	<p>A compound within the genus defined by the formula:</p>  <p>(I)</p> <p>in the context of the claim</p>	Not disputed
1-11, 13-23	a pharmaceutically acceptable salt thereof	Plain and ordinary meaning	Not disputed
1-11, 13-23	pharmaceutically acceptable salt and/or a prodrug thereof	Plain and ordinary meaning	Not disputed
4	ceftaroline		Not disputed
4-11, 13-23	ceftaroline fosamil		Not disputed

U.S. Patent No. 8,247,400			
Claim	Term/Phrase	Agreed Construction	Intrinsic Evidence
		 <p>OR</p> <p>7β-[2(Z)-ethoxyimino-2-(5-phosphonoamino-1,2,4-thiadiazole-3-yl)acetamido]-3-[4-(1-methyl-4-pyridinio)-2-thiazolylthio]-3-cephem-4-carboxylate</p>	
4-11, 13-23	ceftaroline fosamil acetate	 <p>X = CH₃COOH; n = 1 OR</p> <p>(6R,7R)-7-[[2(Z)-2-(ethoxyimino)-2-[5-phosphonoamino-1,2,4-thiadiazol-3-yl]acetyl]amino]-3-[[4-(1-methyl-4-pyridinium-4-yl)-thiazol-2-yl] sulfanyl]-8-oxo-5-thia-1-azabicyclo [4.2.0]oct-2-ene-2-carboxylate monoacetate monohydrate</p>	Not disputed
10-11, 13-	A method of treating a bacterial infection	Plain and ordinary meaning	Not disputed

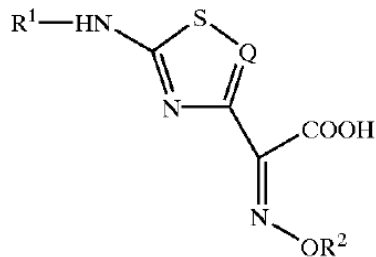
U.S. Patent No. 8,247,400			
Claim	Term/Phrase	Agreed Construction	Intrinsic Evidence
23		Preamble is not limiting	
10-11, 13-23	to a patient in need thereof	to a patient suffering from a bacterial infection	Not disputed
10-11, 13-23	administering, administered	delivering into a patient's body, delivered into a patient's body	Not disputed
13,16, 19	community acquired bacterial pneumonia	Plain and ordinary meaning	Not disputed
15, 18, 21, 23	every 12 hours	Plain and ordinary meaning	Not disputed

DISPUTED TERMS

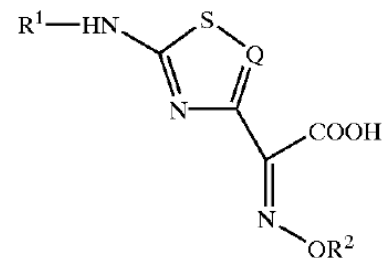
U.S. Patent No. 6,417,175	
Term/Phrase: A method for treating a bacterial infection (claims 5-7, 12, 15-16, 20-21)	
Plaintiffs	Sandoz
Plain and ordinary meaning	Plain and ordinary meaning
Preamble is limiting	Preamble is not limiting
<p>The claims and specification of U.S. Patent No. 6,417,175 ("the '175 patent"), including Claims 5- 7, 15-16 and 20-21, Abstract, and column 1, lines 9-16, column 2, lines 30-33, column 5, lines 1-2, 9-10, 15-29, 41-47, column 25, lines 2-26, 63-67, column 26, lines 1-41, and column 30, lines 15-20 of the specification.</p> <p>The file history of the '175 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> • Page 2 of May 23, 2001 Non-Final Rejection • Page 19 of October 9, 2001 Applicant Response • Feb. 15, 2002 Notice of Allowance <p>all prior art cited therein</p>	<p><i>See, e.g.,</i> the '175 patent at col. 1, ll. 9-16; col. 2, ll. 33-34; col. 5, ll. 1-14; col. 25, ll. 2-26; col. 26, ll. 37-41; col. 30, ll. 15-22.</p>

DISPUTED TERMS**U.S. Patent No. 6,417,175****Term/Phrase: a compound of the formula:****its salt or its reactive derivative; wherein each symbol has the meaning given in claim 1 (claim 14)****Plaintiffs**

A compound within the genus defined by the formula:

or salt or reactive derivative thereof; wherein each symbol Q and R² has the meaning given in claim 1**Sandoz**

a compound of the formula:

or salt thereof or activated carbonyl derivative thereof; wherein each symbol Q, R¹ and R² has the meaning as given in claim 1, in the context of the specification and prosecution history

U.S. Patent No. 6,417,175	
Plaintiffs	Sandoz
<p>The claims and specification of U.S. Patent No. 6,417,175 ("the '175 patent"), including Claim 14 and column 1, lines 1-3, column 4, lines 16-31 and Formula (III), column 14, lines 10-18, 46-51, 61-63, column 15, lines 6-9, 64-67, column 16, lines 1, 14-16, column 21, lines 1-8, 16-18, 51-60, and column 23, lines 46-52 of the specification.</p> <p>The file history of the '175 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> • Page 7 of Jan. 22, 2002 Applicant Response • Feb. 15, 2002 Notice of Allowance <p>all prior art cited therein</p>	<p><i>See, e.g.</i>, the '175 patent at col. 2, ll. 38-61; col. 14, l. 10 – col. 16, l. 67; col. 27, l. 60 – col. 30, l. 12 (Working Examples 1-8); col. 30, ll. 24-67 (claim 1); col. 31, l. 41 – col. 32, l. 23 (claim 14).</p> <p><i>See, e.g.</i>, '949 PH at Original Application at 44-46; 5-23-01 Non-Final Rejection at 3-4 (finding "Group convertible to a phosphono group" would mean "pretty much anything can be R¹"); '949 PH at 10-09-01 Remarks at 17 (removing "a group convertible to a phosphono group"); '949 PH at 11-28-01 Final Rejection at 2; 1-22-02 Response After Final Action, Remarks at 8-9 (stating "R¹ has been limited to a phosphono group").</p>

DISPUTED TERMS

U.S. Patent No. 6,417,175	
Term/Phrase: the compound shown in claim 1 (claim 17)	
Plaintiffs	Sandoz
a compound within the genus defined by the formula shown in claim 1	Indefinite
<p>The claims and specification of U.S. Patent No. 6,417,175 ("the '175 patent"), including Claims 1 and 17, Abstract, and column 1, lines 9-10, column 2 at Figure (I), column 3 at Figure (IV), column 10, lines 4-23 and Formula (I'), column 14, lines 8-18, column 17, lines 1-67, column 18, lines 1-54 and Figures (Ia), (Ib), and (Ic), column 19:7-29 and Figure (V), and Working Examples 1-2 of the specification.</p> <p>The file history of the '175 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> • Pages 16, 17, and 19 of Oct. 9, 2001 Applicant Response • Oct. 9, 2001 Horibe Declaration • Feb. 15, 2002 Notice of Allowance • Pages 7 and 11 of Dec. 13, 2010 Patent Term Extension Application <p>all prior art cited therein</p>	<p>The '175 patent at col. 30, ll. 24-67 (claim 1); col. 32, ll. 30-33 (claim 17).</p>

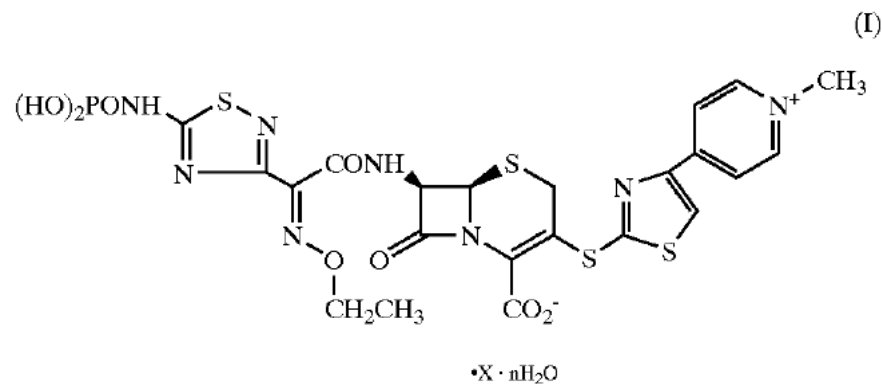
DISPUTED TERMS

U.S. Patent No. 6,417,175	
Term/Phrase: the compound of claim 4 (claim 18)	
Plaintiffs	Sandoz
a compound within the genus defined by the formula shown in claim 4	Indefinite
<p>The claims and specification of U.S. Patent No. 6,417,175 ("the '175 patent"), including Claims 1 and 18, Abstract, and column 1, lines 9-10, column 2 at Figure (I), column 3 at Figure (IV), column 10, lines 4-23 and Formula (I'), column 14, lines 8-18, column 17, lines 1-67, column 18, lines 1-54 and Figures (Ia), (Ib), and (Ic), column 19:7-29 and Figure (V), and Working Examples 1-2 of the specification.</p> <p>The file history of the '175 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> • Pages 16, 17, and 19 of Oct. 9, 2001 Applicant Response • Oct. 9, 2001 Horibe Declaration • Feb. 15, 2002 Notice of Allowance • Pages 7 and 11 of Dec. 13, 2010 Patent Term Extension Application <p>all prior art cited therein</p>	<p>The '175 patent at col. 31, ll. 9-11 (claim 4); col. 32, ll. 33-35 (claim 18).</p>

DISPUTED TERMS

U.S. Patent No. 6,906,055

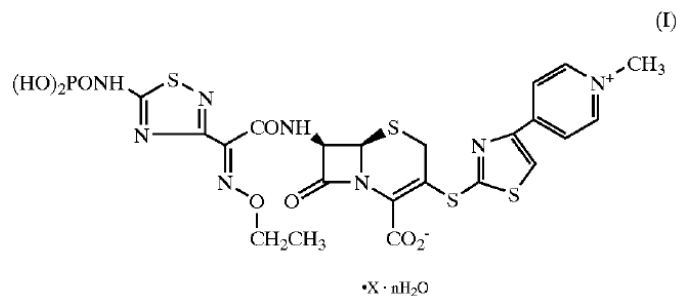
Term/Phrase: A compound of the formula



(claims 1-5, 9, 16, 18, 20-21)

Plaintiffs

A compound within the genus defined by the formula:



Sandoz

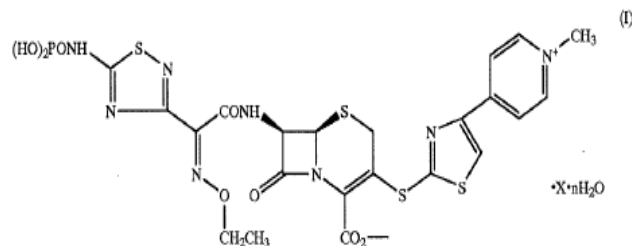
Indefinite

U.S. Patent No. 6,906,055	
<p>The claims and specification of U.S. Patent No. 6,906,055 ("the '055 patent"), including Claims 1-5, 10-11, 16, and 20-21, Abstract, and column 1, lines 9-36, 51-67 and Figure (Ia), column 2, lines 1-38, 50-67 and Figure (I), column 3, lines 1-36 and Figure (Ia), column 4, lines 55-67, column 5, line 1-30, 53-64, column 7, lines 5-21 and Figure (II), column 8, lines 50-64, Examples 1-24, Reference Examples 1-30, and Experiment Examples 1-12 of the specification.</p> <p>The file history of the '055 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> • Page 2 of Aug. 3, 2004 Non-Final Rejection • Dec. 3, 2004 Notice of Allowance <p>all prior art cited therein</p>	<p><i>See, e.g.</i>, the '055 patent at col. 2, ll. 1-16, 53-65; col. 3, ll. 21-35; col. 15, l. 40-col. 16, l. 27 (Example 1); col. 16, ll. 28-59 (Example 2); col. 16, l. 60-col. 17, l. 35 (Example 3); col. 17, l. 37-col. 18, l. 2 (Example 4); col. 18, ll. 3-38 (Example 5); col. 18, ll. 40-67 (Example 6); col. 19, ll. 1-43 (Example 7); col. 19, l. 45-col. 20, l. 12 (Example 8); col. 20, ll. 14-48 (Example 9); col. 20, ll. 48-57 (Example 10); col. 20, ll. 58-67 (Example 11); col. 21, ll. 1-25 (Example 12); col. 21, ll. 27-37 (Example 13); col. 21, ll. 38-49 (Example 14); col. 21, l. 51-col. 22, l. 9 (Example 15); col. 22, ll. 11-35 (Example 16); col. 22, ll. 36-46 (Example 17); col. 22, ll. 48-57 (Example 18); col. 22, l. 59-col. 23, l. 15 (Example 19); col. 23, ll. 16-35 (Example 20); col. 23, ll. 36-59 (Example 21); col. 23, l. 61- col. 24, l. 17 (Example 22); col. 24, ll. 19-41 (Example 23); col. 24, ll. 42-67 (Example 24); col. 38, ll. 9-34 (claim 1); col. 37-39 (claim 10); col. 41 (claims 20-21); the '285 application PH at Non-final Rejection 8/3/2004; <i>id.</i> at Applicants' Response 10/27/2004.</p>

DISPUTED TERMS

U.S. Patent No. 6,906,055

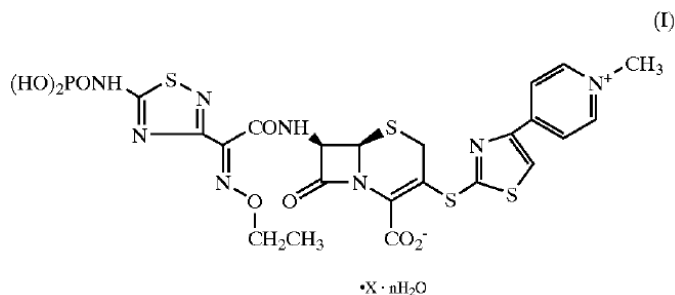
Term/Phrase: A compound represented by the formula



(claims 10-12)

Plaintiffs

A compound within the genus defined by the formula:



Sandoz

Indefinite

The claims and specification of U.S. Patent No. 6,906,055 ("the '055 patent"), including Claims 1-5, 10-11, 16, and 20-21, Abstract, and

See, e.g., the '055 patent at col. 2, ll. 1-16, 53-65; col. 3, ll. 21-35; col. 15, l. 40-col. 16, l. 27 (Example 1); col. 16, ll. 28-59 (Example 2); col. 16, l. 60-col. 17, l. 35 (Example 3); col. 17, l.

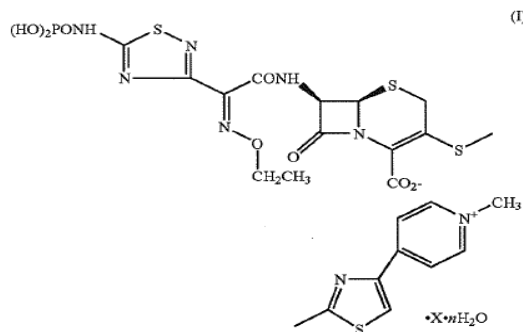
U.S. Patent No. 6,906,055	
<p>column 1, lines 9-36, 51-67 and Figure (Ia), column 2, lines 1-38, 50-67 and Figure (I), column 3, lines 1-36 and Figure (Ia), column 4, lines 55-67, column 5, line 1-30, 53-64, column 7, lines 5-21 and Figure (II), column 8, lines 50-64, Examples 1-24, Reference Examples 1-30, and Experiment Examples 1-12 of the specification.</p> <p>The file history of the '055 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> • Page 2 of Aug. 3, 2004 Non-Final Rejection • Dec. 3, 2004 Notice of Allowance <p>all prior art cited therein</p>	<p>37-col. 18, l. 2 (Example 4); col. 18, ll. 3-38 (Example 5); col. 18, ll. 40-67 (Example 6); col. 19, ll. 1-43 (Example 7); col. 19, l. 45-col. 20, l. 12 (Example 8); col. 20, ll. 14-48 (Example 9); col. 20, ll. 48-57 (Example 10); col. 20, ll. 58-67 (Example 11); col. 21, ll. 1-25 (Example 12); col. 21, ll. 27-37 (Example 13); col. 21, ll. 38-49 (Example 14); col. 21, l. 51-col. 22, l. 9 (Example 15); col. 22, ll. 11-35 (Example 16); col. 22, ll. 36-46 (Example 17); col. 22, ll. 48-57 (Example 18); col. 22, l. 59-col. 23, l. 15 (Example 19); col. 23, ll. 16-35 (Example 20); col. 23, ll. 36-59 (Example 21); col. 23, l. 61-col. 24, l. 17 (Example 22); col. 24, ll. 19-41 (Example 23); col. 24, ll. 42-67 (Example 24); col. 38, ll. 9-34 (claim 1); col. 37-39 (claim 10); col. 41 (claims 20-21); the '285 application PH at Non-final Rejection 8/3/2004, Applicants' Response 10/27/2004.</p>

DISPUTED TERMS

U.S. Patent No. 6,906,055	
Term/Phrase: n is 0 to 5 (claims 1-5, 9-11, 16, 18, 20-21)	
Plaintiffs	Sandoz
Plain and ordinary meaning	Plain and ordinary meaning Any number between 0 to 5, encompassing fractions
<p>The claims and specification of U.S. Patent No. 6,906,055 ("the '055 patent"), including Claims 1-5, 9-11, 16, 18, and 20-21, Abstract, and column 2, lines 1-38, 50-67 and Figure (I), column 4, lines 55-67, column 5, lines 1-30, 53-64, Examples 1-5 and 9, and Reference Examples 5, 9, 16, 20, and 21 of the specification.</p> <p>The file history of the '055 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> Dec. 3, 2004 Notice of Allowance <p>all prior art cited therein</p>	<p><i>See, e.g.,</i> the '055 patent at col. 2, ll. 1-16, 65-66; col. 4, ll. 55-57; col. 31, ll. 18-50 (Reference Example 20); col. 31, l. 52-col. 32, l. 17 (Reference Example 21); col. 38, ll. 9-24 (claim 1); cols. 37-38 (claim 10 structure); col. 41 (claims 20-21 structure).</p>

DISPUTED TERMS

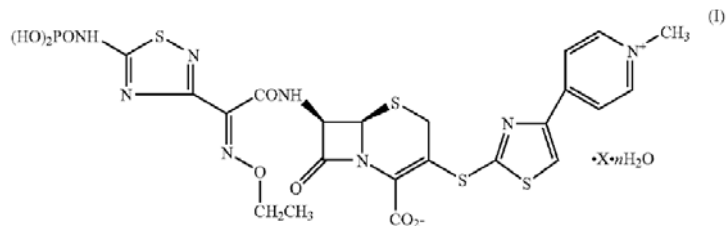
U.S. Patent No. 6,906,055	
Term/Phrase: proportion (volume ratio) (claim 11)	
Plaintiffs	Sandoz
ratio of the volume of CH ₃ COOH or CH ₃ CH ₂ COOH to the volume of water	Indefinite
<p>The claims and specification of U.S. Patent No. 6,906,055 ("the '055 patent"), including Claim 11, Abstract, and column 3, lines 15-19, column 5, lines 31-52, column 6, lines 30-40, and column 15, lines 24-27 of the specification.</p> <p>The file history of the '055 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> Dec. 3, 2004 Notice of Allowance <p>all prior art cited therein</p>	<p><i>See, e.g.,</i> the '055 patent at col. 5, ll. 31-52; col. 6, ll. 12-40; col. 7, ll. 30-40; col. 39 (claim 11).</p>

DISPUTED TERMS**U.S. Patent No. 7,419,973****Term/Phrase: A compound of formula (I):**

(claims 1-5, 7-16, 21-23)

Plaintiffs

A compound within the genus defined by the formula:



Indefinite

Sandoz

The claims and specification of U.S. Patent No. 7,419,973 ("the

See, e.g., the '973 patent at col. 2, ll. 9-24, 56-57; col. 3, ll. 34-52; col. 14, l. 52-col. 15, l. 35 (Example 1); col. 15, ll. 37-67

U.S. Patent No. 7,419,973	
<p>'973 patent"), including Claims 1-5, 7-16, and 21-23, Abstract, and column 1, lines 9-52, 61-67 and Figure (Ia), column 2, lines 1-35, 66-67 and Figure (I), column 3 at lines 1-52 and Figure (Ia), column 5, lines 33-67, column 6, lines 1-3, 24-34, column 7, lines 32-47 and Figure (II), and column 8, lines 56-67, Examples 1 – 24, Reference Examples 1-30, and Experiment Examples 1-12 of the specification.</p> <p>The file history of the '973 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> • Page 2 of Apr. 24, 2007 Non-Final Rejection • Apr. 7, 2008 Notice of Allowance <p>all prior art cited therein</p>	<p>(Example 2); col. 16, ll. 1-37 (Example 3); col. 16, ll. 39-67 (Example 4); col. 17, ll. 1-36 (Example 5); col. 17, ll. 38-67 (Example 6); col. 18, ll. 1-41 (Example 7); col. 18, l. 43-col. 19, l. 10 (Example 8); col. 19, ll. 12-42 (Example 9); col. 19, ll. 45-56 (Example 10); col. 19, ll. 58-67 (Example 11); col. 20, ll. 1-24 (Example 12); col. 20, ll. 27-34 (Example 13); col. 20; 1, ll. 37-47 (Example 14); col. 20, l. 48-col. 21, l. 5 (Example 15); col. 21, ll. 7-30 (Example 16); col. 21, ll. 32-41 (Example 17); col. 21, ll. 43-52 (Example 18); col. 21, l. 53-col. 22, l. 10 (Example 19); col. 22, ll. 12-31 (Example 20); col. 22, ll. 33-56 (Example 21); col. 22, l. 57-col.23, l. 16 (Example 22); col. 23, ll. 17-38 (Example 23); col. 24, ll. 41-67 (Example 24); col. 37, ll. 2-24 (claim 1); the 715 application PH at Original Claims, at Non-final Rejection 4/27/2007, Applicants' Response 9/19/2007.</p>

DISPUTED TERMS

U.S. Patent No. 7,419,973	
Term/Phrase: n is 0 to 5 (claims 1-5, 7-16, 21-23)	
Plaintiffs	Sandoz
Plain and ordinary meaning	Plain and ordinary meaning Any number between 0 to 5, encompassing fractions
<p>The claims and specification of U.S. Patent No. 7,419,973 ("the '973 patent"), including Claims 1-5, 7-16, and 21-23, Abstract, and column 2, lines 1-2, 9-35, 66-67 and Figure (I), Examples 1-9, and Reference Examples 5, 9, 16, and 21 of the specification.</p> <p>The file history of the '973 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> Apr. 7, 2008 Notice of Allowance <p>all prior art cited therein</p>	<p><i>See, e.g.</i>, the '973 patent at col. 2, ll. 9-24; col. 2, l. 66-col. 3, l. 10; col. 3, ll. 51-52; col. 30, ll. 18-48 (Reference Example 20); col. 30, l. 50-col. 31, l. 12 (Reference Example 21); col. 37, ll. 2-24 (claim 1)</p>

DISPUTED TERMS

U.S. Patent No. 8,247,400	
Term/Phrase: (6R,7R)-7-[[((2Z)-2-(ethoxyimino)-2-[5-(acetamido)-1,2,4-thiadiazol-3-yl]acetyl]amino]-3-[[4-(1-methylpyridinium-4-yl)-1,3-thiazol-2-yl]sulfanyl]-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylate (claims 3-9, 13-23)	
Plaintiffs	Defendants
<p>Compound A</p> <p>OR</p> <p>$R^1 = CH_3$</p>	<p>$R^1 = CH_3$</p>
<p>The claims and specification of U.S. Patent No. 8,247,400 ("the '400 patent"), including Claims 3-9 and 13-23 and column 4, lines 40-56, column 6, lines 59-62, column 7, lines 28-37, and column 27, lines 41-46 of the specification.</p> <p>The file history of the '400 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> May 30, 2012 Notice of Allowance <p>all prior art cited therein</p>	<p><i>See, e.g.,</i> the '400 patent at col. 2, ll. 55-65; col. 3, l. 20 – col. 4, l. 15; col. 4, ll. 34-39; col. 15, l. 9 – col. 18, l. 11; col. 18, l. 44 – col. 20, l. 15 (Example I); col. 28, l. 62 – col. 29, l. 33 (claims 3-9); col. 30, ll. 6-40 (claims 13-23).</p>

DISPUTED TERMS

U.S. Patent No. 8,247,400	
Term/Phrase: up to about (claims 6-9)	
Plaintiffs	Defendants
Plain and ordinary meaning	<p>Indefinite</p> <p>While Defendants maintain this term is indefinite, in the alternative, offer the following construction:</p> <p>Contains an amount of (6R,7R)-7-[[(2Z)-2-(ethoxyimino)-2-[5-(acetamido)-1,2,4-thiadiazol-3-yl]amino]-3-[[4-(1-methylpyridinium-4-yl)-1,3-thiazol-2-yl]sulfanyl]-8-oxo-5-thialazabicyclo[4.2.0]oct-2-ene-2-carboxylate not over [for claim 6] 10 mg (plus/minus 20%) [for claim 7] 5 mg (plus/minus 20%) [for claim 8] 2.5 mg (plus/minus 20%) [for claim 9] 1 mg (plus/minus 20%)</p>
<p>The claims and specification of U.S. Patent No. 8,247,400 ("the '400 patent"), including Claims 6-9 and 12 and column 5, lines 4-7, 42-44, 50-52, 58-60, column 6, lines 7-8, and column 13, lines 41-49, 57-65 of the specification.</p> <p>The file history of the '400 patent, including the following portions thereof:</p> <ul style="list-style-type: none"> May 30, 2012 Notice of Allowance <p>all prior art cited therein</p>	<p><i>See, e.g.,</i> the '400 patent at col. 13, lines 57-65; col. 29, ll. 9-33 (claims 6-9).</p>